

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 9039 of 2007(A)

PETITIONER:

K.C.ABDUL MUNEER, S/O K.C.KHADER,
AGED 32 YEARS, KALATHINGALCHUNGATH HOUSE,
PANNIPPARA, EDAVANNA.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. THE TAHSILDAR,
NILAMBUR.
2. THE DISTRICT COLLECTOR,
MALAPPURAM.
3. THE SUB INSPECTOR OF POLICE,
EDAVANNA POLICE STATION.
4. THE EDAVANNA GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY.
5. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.

R1 TO R3 & R5 BY ADV. SMT. T.B. RAMANI, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 9039 OF 2007

Dated this the 22nd day of March, 2007

JUDGMENT

Even though Mr.Sunny Mathew, counsel for the petitioner was very persuasive in his submissions, I do not think that this Court will be justified in view of the facts disclosed from the statement dated 20.3.07 filed by the Government Pleader in invoking this Court's extraordinary jurisdiction under Article 226 of the Constitution of India for directing immediate release of the vehicle. But I do find some force in the submission of the counsel that in view of the judgment of this Court in **Mooskoya V. State of Kerala** (2005 (4) KLT 331), the District Collector will be bound to release the vehicle pending adjudication. The petitioner is directed to file an application for interim release of the vehicle and the load before the District Collector. The District Collector will notice that this Court in many other matters have directed interim release of the vehicles directing the owners of the vehicles to remit Rs.10,000/- by cash and also filing an undertaking in the form of an affidavit to the effect that the vehicles in good running condition will be produced if and when directed in that regard by the District Collector or any other competent authority and will not impose unduly harsh conditions. The District Collector will consider the application to be submitted by the

petitioner and pass orders within seven days of receiving the application taking due notice of the principles laid down by this Court in **Moosakoya V. State of Kerala**(Supra). The petitioner is also permitted to produce a copy of the order in Crl.MC No.649 of 2007 before the District Collector so that the said order also can be considered by the District Collector.

The Writ Petition will stand dismissed subject to the above directions.

PIUS C. KURIAKOSE, JUDGE

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